Proof of Disciplinary Violations During Administrative Investigation Per Jordanian Civil Service Bylaw No. 9 Of 2020: A Comparative Study

إثبات المخالفات التأديبية اثناء التحقيق الإداري على ضوء نظام الخدمة المدنية الأردني رقم 9 لسنة 2020 (دراسة مقارنة)

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Abstract

Objectives: this study sheds light on disciplinary evidence and defines its features to ascertain if an employee has committed a disciplinary offence while carrying out his job duties. It demonstrates how the Administrative Investigation Committee can establish the burden of proof. **Research Problem**: the adequacy of organising special rules of evidence before the Administrative Investigation Committee to detect behavioural violations. The Jordanian legislator addressed these rules in Article 146/b/2 of the Jordanian Civil Service Law No. 9 of 2020. However, these rules are not integrated, as it is assumed that the administration has complete evidence of claims of behavioural violations. It does not have the right to accuse the employee of deviating from his job mandate without evidence. The employee is also entitled to present evidence refuting such claims. Thus, it falls to investigation committees to search for the

necessary evidence to clarify the truth. **Methods**: this study adopts a descriptive and analytical approach that compares the Jordanian, Egyptian and Emirati legislation concerning the rules of evidence. **Results and Conclusions:** the paper concludes by with the following results such as: Jordanian Civil Service Law fails to organise the means of evidence and administrative papers, as the legislator did not explicitly grant the Administrative Investigation Committee the authority to review documents related to the violation. In contrast, they were expressly formulated in the Egyptian and Emirati legislations. As well as, the Jordanian legislator did not deal with the method of inspection before the administrative investigation committee in the Civil Service Law, unlike the Egyptian legislator who regulated that method in the law and provided instructions to the Administrative Prosecution. Such was also the case for the UAE federal legislator within the framework of the executive regulations of the human resources law in the federal government.

Keywords: Public Servant, Civil Service Bylaw, Dysfunction, Evidence, Administrative Investigation.

ملخص

يهدف هذ البحث لتسليط الضوء على الأدلة التأديبية وتحديد ملامحها لمعرفة فيما إذا كان الفعل الواقع من الموظف أثناء قيامه بممارسة واجباته الوظيفية يدخل ضمن إطار المخالفة التأديبية من عدمه، ومعرفة كيفية وضع عبء الإثبات من قبل لجنة التحقيق الإداري، والوقوف عليها للخروج بتوصيات في غاية الأهمية للمشرع الأردني. وركز هذا البحث على موضوع في غاية الأهمية وهو الوقوف على مدى كفاية تنظيم قواعد خاصة بالإثبات أمام لجنة التحقيق الإداري للكشف عن المخالفات المسلكية، فقد تناول المشرع الأردني هذه القواعد وفقاً للمادة 146/ب/2 من نظام الخدمة المدنية الأردني رقم 9 لسنة 2020، إلا أنها غير متكاملة، فمن المفترض أن يكون لدى الإدارة دليل إثبات كامل على ما تدعي بوجود هذه الواقعة، وليس لها اتهام الموظف بالخروج عن مسلك وظيفته دون وجود ما يدل على موقفها، كما يحق للموظف تقديم ما ينفي ويدحض كل ما هو منسوب اليه، ويقع على عاتق لجان التحقيق عبء الوصول للأدلة اللازمة لاستجلاء الحقيقة، وقد بيّنت الدراسة عدم اهتمام المشرع الأردني للقواعد التي تتناول الأدلة الإثباتية في المخالفات التأديبية، إذ تناول بعضها دون بعض، ولذلك تكمن الاشكالية في وجود نقص في التشريع الأردني لتنظيم الإثبات للكشف عن المخالفة الواقعة من الموظف العام. وعليه نوصي بالعمل على تعديل المنظومة التشريعية من خلال إضافة نصوص قانونية تتعلق بأحكام وطرق الإثبات واجراءاتها من الناحية التفصيلية. واعتمد هذا البحث على مناهج عدة منها؛ المنهج التحليلي لتحليل النصوص

التشريعية ومضمون الأحكام القضائية والآراء الفقهية ذات العلاقة، كما استخدم البحث المنهج المقارن، حيث تناول الموضوعات المطروحة في هذا البحث ضمن إطار مقارن بين الأردن ومصر والامارات في ضوء الأحكام القانونية المتعلقة بهذا الموضوع للوقوف على نقاط القوة والضعف، والوصول إلى أهم النتائج والتوصيات.

الكلمات المفتاحية: الموظف العام، نظام الخدمة المدنية، الإخلال الوظيفي، الدليل، التحقيق الإداري.

Introduction

When the public servant exercises his duties, he must take into account the functional controls entrusted to him, and any breach, transgression or negligence in performing his duties renders him accountable and subject to disciplinary actions within the framework of the relevant legal procedures inherent in the disciplinary system. Such a system aims to ensure the proper functioning of public facilities by helping the administration carry out its tasks free of error and disruptions to workflow. To enact just discipline, the administrative investigation is considered an effective means that leads to reaching the truth of the accusations against the public servant. Such violations include the failure to maintain information and documents entrusted to them. The competent authority for administrative investigation in Egypt is either the administrative investigation committees or the administrative prosecution for the holders of executive positions per Article 83 of the Civil Service Bylaw. While in the case of Jordan, this role is performed by the Administrative Investigation Committee alone.

The requirement is to establish evidence of the occurrence of an incident, and each party in the administrative investigation should do its best to prove its claims. The administration has the right to prove the correctness of its claims using all valid means at its disposal. Similarly, the public servant has the right to defend his innocence. The investigation committee is tasked with proving that a violation has indeed occurred and that it was not an act deemed within the scope of his freedom of choice while also collecting evidence against the accused.

Some legislations related to the public office system have not organised the system of evidence in disciplinary violations in an integrated manner. It has lacked detailed procedures to guide the Administrative Investigation Committee. This leaves the Administrative Investigation Committee with a broad authority to operate under general rules to detect violations, collect evidence, and verify the validity of its investigation.

The burden of proof in disciplinary violations

There is no doubt that the evidence of proof is the means by which the occurrence of an act is proven (Nassif, 2005, p. 22). On this basis, the disciplinary offense is considered a material incident, which emerges when the employee commits an act, whether positive or negative, that violates the public interest, or deviates from his specified duties, such as performing a prohibited act, including, that he discloses the secrets of the job, or his refusal to perform a job that should have been adhered to, or his lack of respect for the instructions related to the facility to which he belongs. Such an incident must be proven by evidence. This task falls to the administration to prove the violation using all legal means at its disposal. The administration must perform this task objectively and impartially, with honestly and credibility far from accusations of personal motives or vested interests (Saud, 2018, p. 232).

As for the party responsible for proving the disciplinary violation, the Egyptian Supreme Administrative Court held that the burden of proof rests on the shoulders of the plaintiff - the administration (Supreme Administrative Court, 1988, No. 1571).

Nevertheless, jurisprudence differed on this subject, with an opinion expressing that the burden of proving the occurrence of a behavioural violation is always on the shoulders of the employee who committed that violation. The principle in the event that the administration accuses him of being the one who committed the violation is that he is rendered not innocent, and therefore he is in the place of the plaintiff, and this entails that he submits proof to the contrary (Abdul-Barr, 1979, p. 344).

Another opinion held that the fundamental rule in the prosecution is the necessity of establishing evidence, based on the legal rule that "an

accused person is considered innocent until proven guilty). In such a case, whoever claims that the act that occurred from the employee was a violation must prove that. This would put the employee in a better position because he takes a negative position; that is, this will lead to him overcoming the administration without any submission of proof on his part (Kasasbeh, 2013, p. 27-28, & Al-Tabbakh, 2018, p. 917). The presumption of innocence entails that the employee accused of the violation may not be required to bear the burden of proving evidence of his innocence. The other effect is placing this burden on the Administrative Investigation Committee, but this does not mean depriving that employee of presenting proof of his innocence and refuting most of the accusations levelled against him. Therefore, the investigator must allow the employee to collect evidence to prove his innocence and protect his rights (Attia, 2021, p. 535-754).

The researchers support the latter opinion. It is common sense that it is not permissible to include any person within the framework of an illegal act, which entails punishment based merely on accusation (by the administration) without proof. Rather, the administration bears the burden of proof as evidence confirming the validity of its claims. The plaintiff is attempting to prove a state other than presumed innocence and must bear the burden of proving the change in state from innocence to guilt with evidence. The researchers further opine that these rules apply to electronic evidence if deemed necessary by the Administrative Investigation Committee.

From the foregoing, the employee is not required to prove his innocence of the charge because he is presumed innocent, so it is the duty of the administrative authority to determine the evidence of a violation by that employee (Egyptian Supreme Administrative Court ruling, session 2/5/1995, appeal No. 3450 for the year 39).

From another perspective, some jurisprudence found that the rule applied by the administrative judiciary (accepting the allegations of the administration's opponent) is applied to the administrative investigation committees. That is because the administrative investigation committee possesses the documents, information and files that the employee relies on

to prove that the he did not commit the violation. Such actions would have a decisive effect to end the subject of the investigation. At the same time, often, the employee cannot provide evidence to defend himself due to not possessing such evidence. Or, he cannot accurately determine the content of those documents possessed by the administration that precludes ignorance because he is not aware of them. If he were to have knowledge of such documents, then it would be limited. This means that the authority carrying out the investigation must transfer the burden of proof from the employee to the administration and ask the latter to show what it has papers and documents relevant to the subject of investigation and produce evidence, whether positive or negative. If the administration fails or refuses to provide these documents or claims that it does not possess them, this establishes a presumption in favour of the employee (Tantawi, 2001, p.243 & Al-Kasasbeh, 2013, p. 32).

The researchers believe in the importance of applying this principle before the Administrative Investigation Committee because there must be a penalty for the administration in the event of negligence or leniency in presenting the documents in its possession. For the stability of the legal positions, it is not permissible to wait for a long period to submit these papers, especially if the employee was suspended from work pending the outcome of the investigation.

In another perspective, the researchers may ask whether the application of the rule of doubt can be interpreted in favour of the accused employee so that the Administrative Investigation Committee may reach complete conviction in the matter and, accordingly, its decision will be the epitome of truth.

The Egyptian Supreme Administrative Court answered this question by virtue of its ruling that: "…until the validity of the disciplinary penalty is established, the violation attributed to the employee must be proven with certainty against him (For the year 32 BC, session 3/31/1990).

From this viewpoint, there must be certain and conclusive evidence of the existence of the violating act on the part of the employee. If there is presumptive evidence or doubt regarding the subject of investigation, it is

interpreted in favour of the employee and can be considered free from the disciplinary violation and having acted within his legal rights.

On the other hand, the Jordanian legislator stipulated in the civil service Bylaw in its article (146 / b / 2) that: "When conducting the investigation, the following shall be considered:

Show the employee referred to the investigation all the papers related to the violation or the complaint in which he is being investigated, and allow him to submit his defences and objections in writing or orally and discuss the required witnesses and summon any person to testify. He is also allowed to include any other documents or reports related to an investigation..." It is clear from the above text that the investigation committee enjoys great freedom in order to prove the incident (wrong act) committed by the employee (Abu Sabah& Al -Sarayrah, 2020, p. 1130).

Means of proof in disciplinary violations

The disciplinary evidence that the administrative investigative committees are looking for to reveal the truth, and to reach a just conclusion is diverse and numerous. As such, it is necessary for the committee to collect such evidence based on certain procedures. Given the importance of evidentiary methods in administrative violation, the following issues must be considered.

Documents and written evidence

The aim of investigative reports is to reach the truth about the facts attributed to the employee, whether they were originally considered in the course of violations or not. Such an investigation must be in a written and documented form. A well-established principle within the framework of the administrative investigation is that all statements related to the violating employee are written (Al-Saeedi, 2006, p. 225). It is not possible to rely on the memory of the investigator because it is subject to change at any time, in addition to that a person may forget, especially over longer durations (Qatanani, 2023, pp. 1690-1694).

In the beginning, when the administrative investigation committee informs the employee of the violation attributed to him, it must allow him

to submit the documents he has attached to his objection, which is often in writing. The UAE Human Resources Law in the federal government stipulated: "...on The Chairman of the Violations Committee is to recite to the employee referred for investigation all the facts... and inform him of the evidence that supports his commission of the violation so that he can express his defence and present the documents he has that support his statements...". The researchers believe that the UAE legislator did well by clearly stipulating the submission of papers so that the investigation committee would remain within the legal framework of the right of defense, and not violate it.

This method is considered one of the most important means of proof, which helps to resolve the existing dispute by proving or denying the disciplinary violation of the employee. Individuals are only dealt with through this method. In addition, the written nature prevails over management procedures in its activity and operations, such as decisions and administrative contracts. Just as the nature of the administrative system requires employees to have files related to each employee and everything that would relate to his job position. The best evidence for this is the following: "...since it is established from the papers of this case - including, the job file of the accused - that a thorough and comprehensive evaluation was conducted for all aspects of the accused, and the result of the evaluation showed that there is a decline in his technical and administrative levels, and that he only works with continuous guidance, as the Director of the Royal Medical Services in the Armed Forces recommended dispensing with his services, and accordingly the decision complained of is in agreement with the procedures drawn up by law and with the presumption of safety..." (Supreme Administrative Court, 1996, No. 57).

The administration possesses administrative papers, which are predominant in the scope of the public office. It is one of the most widespread methods of proof and the easiest, especially in the framework of the administrative investigation. The administrative authority undertaking the investigation has the right to request any public department submit the documents in its possession to determine whether

or not the administrative violation occurred. This Egyptian legislator stipulated in Article 83 of the civil service Bylaw as follows: The investigator may, on his own initiative or at the request of the person with whom the investigation is being conducted ... and review the records and papers that he deems useful in the investigation." Likewise, the UAE legislator has explicitly given what is called the "Violations Committee" the right to review any document and to ask the department or unit to which the violator belongs to provide any clarification or additional information that would enlighten the way for it to find out the truth of the incident, in accordance with Article 98/5 of the executive regulations of the Human Resources Law in the federal government.

After reviewing the Jordanian Civil Service Bylaw, it had not regulated this issue by giving the investigative committee the authority to consider administrative papers, but it granted it to the Disciplinary Council, through Article (151 / b) thereof: "The Disciplinary Board may, during consideration of any disciplinary case...or ask any department, including the department from which the employee is referred, to submit to him any documents or papers it has if they are directly related to the violation under consideration…" The above finds that the legislator has placed an important restriction, which is that this document is directly related to proving the incident under investigation in order to be accepted by the council. The researchers believe that this is considered a reproach to the Jordanian legislator in not expressly stating the right of the administrative investigation committees to view documents and papers of importance to reveal the truth about the issue related to the behavioural violation. Thus, the researchers are the view that there is a need to amend the civil service Bylaw and stipulate this method explicitly, in a manner similar to Egyptian legislation.

In this regard, a question arises about the administrative body's refusal to provide the papers and documents required in the investigation for perusal. This research found nothing in the legislation and judicial rulings to answer this question. However, from the researchers' point of view, it is permissible for the Administrative Investigation Committee to consider the non-compliance of the administrative authority in submitting the

papers required to be within the framework of this disciplinary violation. This is especially the case if that may lead to the accused employee or lead to proving the behavioural violation. From this point of view, there should be no abstention without taking action because this would affect the course of justice. It is an essential means, especially in the scope of the discipline, because of the confidence and stability it provides that is not available in other means (Al-Hailat, 2022, p. 52).

This concept can be applied to electronic documents and written evidence because the text of the Article is general. We believe that this is necessary so that there is no delay in the outcome of the investigation, not to mention that it helps ensure that there is no distortion of the truth.

For the document to be considered official, it must be confirmed by a public official within the legal framework of his powers (Al-Sanhouri, 2004, p. 111). This is confirmed by Article (6/1/a) of the Jordanian Evidence Law and Article (10) of the Egyptian Evidence Law in the sense that all the information it contains is considered correct until the opponent presents proof of his forgery (Allam, 2014, p. 117). On the other hand, it is necessary to talk about electronic documents, as today, some papers are stored in the computer's memory. The latter is distinguished by the ease of viewing them, memorising them and referring to them at any time, and knowing if any change has occurred to them (Nama, 2007, pp. 173-174).

The researchers believe that this method greatly facilitates the ability of administrative investigation committees to view any document without asking the administration to submit it through electronic links. The researchers regard this as necessary to resolve the issue of whether the employee's mistake is a disciplinary violation or not.

From the foregoing, the researchers believe that it is necessary to amend the Jordanian civil service Bylawand explicitly stipulate the means of evidence and documents. We also do not overlook the importance of the committee using electronic links to view electronic documents due to their importance and spread in the present day. These documents enjoy the authenticity of their paper counterpart according to Article 6 of the

Jordanian Electronic Transactions Law, and Article (15) of the Egyptian Electronic Signature Law.

Testimony and evidence for disciplinary violations

It may be possible for the witnesses to be heard by the Administrative Investigative Committee or the Administrative Prosecution, either to complement what is contained in the document or to determine the circumstances surrounding the incident in question (Al-Tabbakh, undated, p. 183).

Referring to the Jordanian Civil Service, researchers find that it referred in its article (146 / b / 2) to some methods of proof related to the administrative investigation, including the testimony of witnesses. However, it was devoid of a statement of the provisions and rules of this method, resulting in the need to apply general rules.

The Egyptian Supreme Administrative Court defined testimony in the disciplinary investigation as: "Statements made by witnesses other than the litigants with what they perceived with their senses, or gleaned from others with their hearing or sight, related to the incident, the circumstances of its commission, or its attribution to the accused, or his innocence. It suffices in the testimony, if it does not reach the whole truth, that it leads to a just and acceptable conclusion".

As for the jurisprudential definitions of testimony in an administrative investigation, they are a person's statements before the investigation committee with information and data related to the investigation, which he reached through one of his senses (Jasim, 2022, p. & Hijazi, 2003, p.105). It is also known as the statements issued by the witness before the investigation committee to prove specific facts related to the violation emanating from the employee. This method relies on the sincerity of the witness and the capacity to perceive, such as hearing, seeing, etc. (Saud, 2018, p. 235). Any person may be summoned to give his testimony if the investigation committee finds that it is directly related to the subject of violation. Article 83 stipulates that "...the investigator may, on his own initiative or at the request of the person with whom the investigation is conducted, hear witnesses…" (Egyptian civil service Bylaw No. 81 of

2016 and its amendments). The UAE federal legislator also stipulated that the Violations Committee hear witnesses in Article 4/98 of the Executive Regulations of the Human Resources Law that: "The Violations Committee must hear the testimony of witnesses - if any -...", but it did not specify who has the right to call the witness. As for the Jordanian legislation, Article (146/b/2) of the civil service Bylaw stipulates that: "...and summoning any person to testify..."

Researchers conclude from the previous text that the Egyptian legislator has granted the Administrative Investigation Committee broader authority by an explicit text, unlike the Jordanian and the Emirati, which dealt with this right implicitly. This led to the practice of not demanding defence witnesses outside of the accused employee. As a result, the researchers call for amending the previous article in the civil service Bylaw and adding the following phrase explicitly: "directly related to the subject matter of the investigation and its necessity".

On the other hand, we do not overlook the existence of a case if the witness was summoned before the investigation committee and he refused to appear or to give his testimony. This issue was dealt with in Egypt, where the executive regulations of the Egyptian civil service Bylaw stipulated: "For every employee summoned to hear his testimony in the investigation and refuses, if he appears or gives his information without an acceptable excuse, he will be subject to disciplinary action." (Article 157 of the Regulations). It did not stop at this point, but rather the instructions of the Egyptian Administrative Prosecution (since it exercises the authority to investigate administrative violations in Egypt) required an order to seize and bring the witness who failed to appear after carrying out his assignment.

The federal Emirati legislator did not address this issue, and in Jordan, the administrative investigation is confined to the administrative investigative committee. Referring to the Civil Service Bylaw, researchers find that it has dealt with a special issue in the case of the witness's refusal to appear, especially if he is an employee. Article 146 / e of the above system stipulates, "If an employee is summoned to hear his testimony and

refuses to attend or giving his information without an excuse, he will be held accountable in accordance with the provisions of this system."

It is noted from the above two texts that an important restriction was placed, which is that the absence of the witness is linked to the existence of a legitimate excuse accepted by the investigation committee. The Jordanian legislator did not address the issue of bringing the witness under a memorandum since he is held accountable according to that system. Further, given that no text obligates the use of the special rules stipulated in the Code of Criminal Procedure, the researchers regard it a reproach to the legislator due to a legislative deficiency. Once again, the committee can issue a subpoena for the witness, especially if it deems that his testimony is indispensable due to its importance in revealing the truth of the violation.

It should be noted that the investigator must inquire of the referred employee whether he has defence witnesses. These witnesses must be requested to hear their statements in the incident attributed to the employee, and that the committee hears the evidence from the witnesses requested by the administration. Without the defence witnesses (the employee's witnesses), the committee's decision is invalid because it does not respect the principle of the right of defence (Atiyah, 2021, pp. 535-754).

In this regard, the Egyptian Supreme Administrative Court ruled that: "... if the defence witnesses of the incident were requested to be heard - they must be heard in order to reach the truth of the matter - if the investigation did not contain these rules - it us characterised by shortcomings" (Supreme Administrative Court ruling, session 12/20 /1994, Appeal No. 4753 of 35 BC). The Jordanian administrative judiciary went on to say that: "...the court finds that the investigation committees and the disciplinary board carried out the procedures in accordance with the rules and enabled the plaintiff to present his defence evidence, as the disciplinary board heard the case... the defence witnesses were unable to deny that the defendant committed the violations attributed to him..." (Administrative Court Decision No. 424/2015).

Witnesses must meet conditions for accepting their testimony, which includes being discerning and aware of the importance of the act, in addition to the integrity of the mind and everything that would negatively affect the freedom of the witness to testify, and to realise what he wants to testify through his senses, such as watching the accused employee publishing confidential documents and information related to the public facility in which he works, and for the investigator to hear each witness separately, for which he may cross-examine the witnesses with each other (Al-Hailat, 2022, pp. 204-205).

For the validity of this method, the witness must take an oath before the investigation committee, otherwise it is considered invalid, as it is a fundamental procedure. Article 7 of the Egyptian Administrative Prosecution Law No. 117 of 1958 and its amendments stipulated that "... their statements are heard after taking the legal oath." As for in the UAE federal legislation, and with reference to the executive regulations and the Human Resources Law, researchers did not find stipulating conditions for the witness to take the oath. Article (146/b/2) of the Jordanian civil service Bylaw stipulates that: "…the statements of any witness are not heard until after taking the legal oath." It contravenes the general principles and rights of defence guaranteed by the law and the general rules established in the procedures…" (Jordanian Administrative, No. 101, 2014).

The oath of the witness before giving his testimony is one of the most important and prominent legal guarantees that the investigation committee must take into account because of the availability of confidence in the testimony, and so that it is considered complete legal evidence that the committee can rely on to build its conviction. This guarantee leads to making the witness perform his testimony truthfully and honestly (Al-Muaqaba, 2018, p. 318).

The employee accused of a disciplinary offense is also entitled to discuss with witnesses the subject of that violation to find out the validity of the administration's claim. The civil service Bylaw explicitly states in Article 146/b/2 that: "...he is also allowed to submit his defences and objections, in writing or orally, and discuss with the required witnesses..."

The UAE federal legislator also affirmed in the executive regulations the right to discuss with witnesses by the Violations Committee in accordance with Article 98/4. The researchers conclude that the legislator has given the power to discuss with the witnesses to the offending employee, unlike the UAE legislator who granted it to the Violations Committee alone with an explicit text. The right of the accused employee and the investigation committee must be expressly stipulated to discuss with the witnesses. The testimony is an indispensable means for establishing the truth of the matter, either that the violation has occurred or that it is denied before the Administrative Investigation Committee. The latter enjoys wide discretion in whether or not to approve the testimony, as it falls within the framework of his personal conviction (Jassim, 2022, p. 186-198). It is not permissible to rely on the auditory testimony from one of the employees alone, and it is not possible to take the testimony if it contradicts documents and papers (Tantawy, 2001, p. 161).

The question that arises is what is the effect in the event that the investigation committee neglected to hear the statements of witnesses? The Egyptian Supreme Administrative Court replied that: "...in the event that the investigator neglected to hear the statements of witnesses who, in his assessment, considered the futility of questioning them, or was content with what they had previously stated before another investigator, this constitutes a shortcoming in the investigation that could be justified for requesting its completion, except that it is not considered a reason for nullity..." (Abu Shadi, 1995, p. 249).

The researchers hope that the Jordanian administrative judiciary will adopt the same principle applied by its Egyptian counterpart. In principle, the procedure of omitting the hearing of witnesses leads to a deficiency in the procedures and not to invalidity, because it is possible to remedy the matter and complete hearing the statements of these witnesses, as it is considered an objective defect and not a formality related to the investigation's procedures.

As for the means of evidence, it is either a legal presumption. It is based on a legislative text, or a judicial presumption, which is the investigation committee's deduction of an order from a known incident on

an unknown incident that is to be proven. This is often related to the circumstances of the violation. It is an essential and indirect means based on the personal conclusion of the investigator, in which his ingenuity and wisdom stand out (Al-Qadi & others, 2016, p. 18). Examples include conclusive evidence, such as the state the employee was in during his arrest, such as publishing confidential documents. Non-conclusive evidence may be proven as the presumption of innocence, as legislation guarantees the individual a means of acquitting himself of the accusation. It is not permissible to deny this condition. However, sometimes supporting evidence is required before the investigation committee, especially if it is inferred that the disciplinary violation occurred (Tantawi, 2001, p. 184).

Experience and inspection of disciplinary violations

This method is defined as a procedure entrusted by the investigation committee to those with experience and competence related to a technical incident, such as reviewing the document and finding out whether it was transferred or not (the subject of violation). It requires research or evaluation, or in general, expressing an opinion scientifically or technically that is beyond an ordinary person, and it is not possible to determine the reasons for the functional violation without expert opinion (Al-Aboudi, 2004, p. 358 & Al-Mawas, 2014, p. 103).

From this standpoint, the investigation committee can seek the assistance of technical experts with regard to the subject of the disciplinary violation, whether on its own or at the request of the parties, regardless of whether it is engineering, computer science, or other sciences, to help it reach the truth of the matter. However, the committee is not obligated to answer the request of the employee or the administration to delegate an expert, meaning that the matter is subject to its discretion (Hijazi, 2003, p. 194).

The expert is appointed through the committee's decision specifying the name and task of the expert, and the period during which this expert must submit his report. He must invite the administration and the employee or whoever acts on their behalf at a specific hour and place to hear their

statements and observations about the violation before starting his mission, and set a date for the examination to give an opinion of the two parties about the facts cited by the expert. This constitutes the experience upon which the committee issues its decision (Raslan, 2011, p. 340 & Odeh, 2006, p. 49).

The expert report plays an important role, especially in the context of public office, through which the conviction of the investigation committee is formed and becomes surrounded by all the information it needs to assist it in issuing its decision in accordance with the law. This report is a tool for the investigation committee to prove the disciplinary incident, and it has the discretionary power to take all or some of that report or replace it (Muqeefi, 2019, p. 226 & Al-Tamawy, 1987, p. 634).

The Jordanian legislator did not regulate in the civil service Bylaw the issue of using the expert method to find the truth of the matter in the behavioural violation related to the public office. The Egyptian legislator also did not address this issue in the new Civil Service Bylaw, except that the instructions of the Egyptian Administrative Prosecution granted that the prosecution resort to experts at the stage of administrative investigation. The UAE federal legislator explicitly stipulated this method in accordance with Article 98/5 of the executive regulations of the Human Resources Law as: "for the violation committee … and the assistance of experts in technical matters."

The researchers believe it is necessary to apply expertise to support the Administrative Investigation Committee, because there may be complex technical issues reassuring the accused of the robustness of the investigation. As such, the researchers encourage the legislator to amend the Jordanian civil service Bylaw and stipulate this method, as has been the case in the Egyptian and Emirati legislations.

As for inspection, it is factual proof by transmitting, watching, or examining the incident related to the violation by the one who carries out the administrative investigation to collect disciplinary evidence, and a method directly related to proving the violation. As such it is of significant importance in the field of administrative discipline (Othman, nd, p. 205

&Tantawi, 2001, p. 22). It means that the members of the administrative investigation committee verify by themselves the facts of the behavioural violation, which are material, to reach the stage of reaching the approach, means, or tools that were followed for their occurrence, and to ascertain the surrounding circumstances and the reasons that necessitated doing so. Visual evidence a clear and complete picture of the incident, its descriptions, and its external appearance (Shatanawi, 2002, p. 65). In addition, the committee reveals the extent of damage that occurred as a result of the disciplinary violation. It should be noted that when the inspection is carried out, a report should be drawn up in which all the procedures taken by the investigator and the things seized are recorded. This report is shown to the offending employee to sign to reflect an accurate picture of the incident (Othman, under one year old, p. 213 & Tantawi, 2001, p. 48).

Referring to the Jordanian legislation, we find that the civil service Bylaw did not provide for an inspection by the Administrative Investigation Committee to detect whether or not the violation occurred. However, there is nothing to prevent the use of this method. In the Egyptian legislation, the instructions of the Administrative Prosecution No. 160 of 2010 stipulated in Article 146 that: "Inspection is one of the investigative procedures that the Administrative Prosecution may carry out in the absence of the accused if his presence is not possible." Article 83 of the civil service Bylaw stipulates that: "The investigator may, on his own initiative or at the request of the person with whom the investigation is conducted, listen to witnesses and review the records and papers that he regards as being useful in the investigation and conducting the inspection."

Whereas the UAE federal legislator stipulated this method indirectly. According to Article 5/98 of the Executive Regulations of the Human Resources Law: "The Violations Committee may review the papers related to the violation committed by the employee..." the researchers conclude that it includes access to documents given that this committee has the right to view them.

Given the above, the Jordanian legislator should work to amend the civil service Bylaw by creating legislative rules related to this method, as was the case in the Egyptian and Emirati legislations.

Conclusion

The subject of evidence for disciplinary violations is critical to uncover the truth of the administration's claims and protect the rights of public servants. The Administrative Investigation Committee pursues the truth of such claims. It provides a framework and system of defences and objections to refute the claims against the accused. However, it is marred by organisational deficiencies and legislative ambiguities, especially in the Jordanian legislation, which prompted this research.

The paper concludes by with the following results and recommendations.

Results

1. Jordanian civil service Bylaw fails to organise the means of evidence and administrative papers, as the legislator did not explicitly grant the Administrative Investigation Committee the authority to review documents related to the violation. In contrast, they were expressly formulated in the Egyptian and Emirati legislations.
2. The Jordanian legislator did not deal with the method of inspection before the administrative investigation committee in the Civil Service Bylaw, unlike the Egyptian legislator who regulated that method in the law and provided instructions to the Administrative Prosecution. Such was also the case for the UAE federal legislator within the framework of the executive regulations of the human resources law in the federal government.
3. In the scope of public office discipline, the Jordanian legislator did not regulate the issue of resorting to experts in the administrative investigation stage. This was also the case in Egyptian Civil Service Bylaw. However, it was addressed in the law and instructions of the administrative prosecution and the order of the UAE federal legislator.

Recommendations

1. We appeal to the Jordanian legislator to intervene and amend the Jordanian civil service Bylaw by establishing authority for the Administrative Investigation Committee to view administrative documents related to the investigation, as is the case with the Egyptian and Emirati legislators.
2. We hope that the amendment will be made to Article 146 / B / 2 of the Jordanian Civil Service Bylaw, and Article 98 of the Executive Regulations of the UAE Human Resources Law, to establish an authority for the investigation committee to summon the witness of its own will, without stopping at the request of the employee referred for investigation by explicitly adding: "The investigation committee, on its own initiative or at the request of the employee referred for investigation, summons any person to testify if it deems that it is directly related to the subject of investigation". Such a move would align it with Egyptian Civil Service Bylaw.
3. We hope that the Jordanian administrative judiciary will adopt the same principle applied by its Egyptian counterpart, that it considers the administrative investigation committee's omission of listening to the witnesses due to its assessment of futility or for any other reason, as a lack of procedures, not invalidity, because it is possible to remedy the matter and complete hearing the statements of these witnesses.
4. We suggest amending the Jordanian civil service Bylaw system by adding: "In the event of his absence, the investigation committee can issue a subpoena for the witness, especially if his testimony cannot be dispensed with due to its importance in reaching the truth." Giving the committee the power to issue a summons to appear to the authorities concerned with the right of the witness would force him to appear before it.
5. We call on the Jordanian legislator to explicitly provide for the means of inspection and expertise in the civil service Bylaw system and organise their procedures in detail, similar to the case of Egyptian Civil

Service, the law and instructions of the administrative prosecution, and the UAE legislator.

Compliance with Ethical Standards

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